

Government Administration and Elections Committee

March 18, 2016

Senate Bill 439: An Act Concerning the State Contracting Standards Board and Requirements for Privatization Contracts

Senator Cassano, Representative Jutila, Ranking Members, and members of the Government Administration and Elections Committee:

Thank you for giving me the opportunity to provide testimony in support of Senate Bill 439: An Act Concerning the State Contracting Standards Board and Requirements for Privatization Contracts.

My name is Oscar Gomez and I am an Information Technology Analyst 3 with the state of Connecticut. There's been much talk of late about the role that consultants play in the state of Connecticut. I would like to read you an excerpt from one of the contracts between the consulting firm SAIC and the state of Connecticut for DMV modernization services that was part of the \$25 million dollar upgrade that went awry:

"During the five years immediately preceding this agreement, SAIC has been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; Violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax invasion, violating federal criminal tax laws, or receiving stolen property."

The document then goes on to describe how the United States Department of Justice brought a civil lawsuit against the company for violating the false claims act in connection with two separate contracts with the nuclear regulatory commission. The case went to trial and a jury rendered a judgment in favor of the government.

I need to pause for a moment to punctuate this next line from the document:

"This verdict in no way limits SAIC's ability to perform on any contract with the State of Connecticut."

The document goes on to describe other pending litigation against the company involving various improprieties and again clears the company to do business with the state. This confession page can be found on page 248 of the 285-page contract. I have attached this page to my testimony and included a link to the full contract in my electronically submitted testimony.

This is clearly a company with some serious problems. They had verdicts rendered against them and had pending lawsuits in other states at the time this contract was approved. Yet someone cleared them to do business with the state of Connecticut.

Who made that determination? How was that determination made?

Clearly, this costly outsourcing contract ended up with significant problems and there has been a number of reports highlighting how the problems at DMV unfolded; one of which I have attached to my testimony that I think fairly describes the situation.

The trouble is the consultants. No one can show me a privatized IT contract that has come in on time, under budget, and did what it was supposed to do. And, we clearly don't have enough scrutiny of the companies that are doing work for the state of Connecticut. That is a big problem, especially seeing as the administration cannot produce a number for how much money is actually spent on these consultants. This number is likely to be in the hundreds of millions, if not more, across the different departments and agencies.

Given the state's current financial situation, these contracts and the practice of utilizing consultants should be seriously scrutinized. Much of this work could be done in-house by state employees who can do this work on time, under budget and with a greater level of accountability than outside consultants. Committee members please support Senate Bill 439. This legislation will bring a much needed transparency and function to the process while also protecting the taxpayers' interests.

Oscar Gomez

**STATE OF CONNECTICUT, DEPARTMENT OF INFORMATION TECHNOLOGY
CONNECTICUT INTEGRATED VEHICLE AND LICENSING SYSTEM ("CIVLS")
MODERNIZATION PROGRAM - REFERENCE NO. 08ITZ0069MA
SCHEDULE B - LEGAL ISSUES**

Debarment or Suspension

During the five (5) years immediately preceding this Agreement, SAIC has been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property.

On September 3, 2004, the U.S. Department of Justice (DOJ) filed a civil lawsuit in the U.S. District Court in the District of Columbia alleging, *inter alia*, that SAIC violated the False Claims Act, 31 U.S.C. § 3729, in connection with two separate contracts with the Nuclear Regulatory Commission, (NRC-04-92-037 and NRC-04-99-046). The complaint is based on an allegation that SAIC failed to report to the NRC certain organizational conflicts of interest (OCIs) that allegedly arose while SAIC was performing the contracts between 1992 and 1999. SAIC denied the Government's allegations and vigorously defended its position on the matters raised in the Complaint. A trial commenced on July 1, 2008. The jury rendered a verdict in favor of the government on two False Claims Act counts on July 31, 2008 and the court entered judgment for the government on October 9, 2008. SAIC has filed motions seeking to reverse the judgment and will, if necessary, file an appeal with the U.S. Court of Appeals for the District of Columbia Circuit. This verdict in no way limits SAIC's ability to perform on any contract with the State of Connecticut.

On June 30, 2009, the U.S. Department of Justice ("DOJ") intervened in a civil lawsuit previously filed under seal by a former government employee in the U.S. District Court for the Southern District of Mississippi, alleging various improprieties in connection with the award to SAIC of Task Order No. 4THL1704915, issued under the General Services Administration's Millennia Lite Contract. Under this task order, SAIC helped establish and support the National Center for Critical Information Processing and Storage ("NCCIPS"), on behalf of the Major Shared Resource Center for High Performance Computing operated by the Naval Oceanographic Office at Stennis Space Center, Mississippi. DOJ's complaint maintains that the alleged improprieties in connection with the award of the task order rendered each of SAIC's task order invoices a false and fraudulent claim within reach of the Civil False Claims Act, 31 U.S.C. § 3729, *et seq.* SAIC denies the allegations set forth in DOJ's complaint, and intends to mount a vigorous defense against these claims. This lawsuit in no way limits SAIC's ability to perform on any contract with the State of Connecticut.

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Heated Words Inside The Crisis That Led To DMV Commissioner's Resignation

BY Jon Lender

The unrelenting computer problems that led to Andres Ayala Jr.'s resignation as Department of Motor Vehicles commissioner this past week were dramatized in heated emails last month between the DMV's IT director and 3M Co., the contractor for the DMV's troubled new electronic system.

The emails reveal that while the DMV system's problems persisted and public frustration mounted, personnel for the state and contractor squabbled about a lack of cooperation between them.

"When things go wrong ... which happens every now and then ... the proper action would be to analyze what went wrong and put measures in place to prevent it from happening in future. Pushing the responsibility and blaming others for one's own failures is a sign of weakness and shows a lack of integrity."

Naveen Prathikantam, the DMV's information technology director, sent those sharp words Dec. 2 to Jon Colavito, a 3M project manager on the \$25-million upgrade of the department's computer system. Prathikantam's message followed three months of setbacks involving the computer conversion — including a tripling of customer waiting times at DMV branches, and a surge of public outrage.

The email, obtained by Government Watch through a Freedom of Information request, was part of an exchange that crackled with frustration on both sides and showed what it's like inside the pressure cooker of a public debacle.

On Dec. 1, Colavito emailed a DMV official and sent a copy to Prathikantam, saying that the state agency "refused to assist" the computer company with a task involving the assessment data for property tax on vehicles. The state's refusal meant that "3M had the burden to perform this work during a time of stabilization during which other priorities/obstacles outweighed this task," Colavito wrote.

Prathikantam shot back Dec. 2: "We have been asking for documentation and ... access to the code and access to the servers to triage certain issues." And then he used capital letters for emphasis: "YOU REFUSE TO PROVIDE IT TO US each time. Please make this a priority on your end so we have a proper hand over of these tasks."

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Colavito replied: "Naveen ... I was not placing blame but rather stating the fact which was that 3M had delivered documentation and asked the state to take on the work" involving vehicle assessment and other issues including address validation. "I even asked in every technical meeting that you champion a meeting with your group ... and our group so that these task[s] could be transitioned but no action was taken. "

Colavito said he had provided a solution at no charge to the state "so that this would not occur again." And he added: "I do not appreciate attacks on my integrity when I have stated the facts as I see them."

Ayala, as commissioner, was on the list of those sent copies of the exchange, along with the DMV's computer upgrade project manager, Nancy Dumais. Ayala quickly decided he had heard enough combativeness, and held a meeting of his top unit chiefs, during which sources say he expressed concern and told his people to tone things down.

On Friday, the DMV's director of communications, William Seymour, had this to say about the email exchange: "In any transformative project of this size, challenges are going to arise from time to time. We handle them with our vendor and seek to resolve them quickly. We also continue to monitor our system's performance and raise issues as needed with our vendor."

3M issued a statement Friday that said, "We have been working closely" with DMV to modernize the system, and "[i]ntegrating systems is always a complex process and, together with the DMV, we continue efforts to address any issues that arise."

Emotional Goodbye

Ayala, by the way, has not been heard from publicly since he submitted his resignation to the office of Gov. Dannel P. Malloy Tuesday night and then held a brief, emotional meeting to announce his decision to his top departmental managers at DMV headquarters in Wethersfield. The meeting, at which he praised agency workers for their hard work in a difficult situation, lasted 10 or 15 minutes, sources said, and a half-hour after it ended, Ayala drove away.

His resignation letter was effective Friday, but he wasn't seen at the office after Wednesday and there was no general goodbye email to employees.

With Ayala gone after one nightmarish year in the \$160,000 commissioner's job, the top man for the moment is the department's \$125,000-a-year deputy commissioner, Michael Bzdyra. He's a veteran state employee who has been with the agency about five years, most of it as a liaison between the DMV commissioner's office and state legislators.

"Until we have a further announcement from the Governor's office, I will serve as acting Commissioner," Bzdyra said in an email late Friday to DMV employees. He also said that Seymour now will serve as chief of staff in addition to his longtime communications role.

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Ayala, 46, a former social studies teacher and one-term Democratic state senator from Bridgeport, inherited the computer-modernization project a year ago when Malloy made him the first Latino commissioner of a state agency.

His problems as commissioner didn't begin with the computer upgrade, but originated about a month earlier when he had to issue a public apology for a July 10 DMV email. The email from a key departmental unit falsely told driving school operators that a new program to license undocumented immigrants as drivers wasn't causing increases of many months in wait times for scheduling driver tests for legal residents. It told the operators not to blame the delays on the program for the immigrants — when, in fact, as reported in a Government Watch column, the opposite was true.

Ayala admitted as much and said of the email, written by one of his division chiefs, "Unfortunately ... I probably should have looked at it a little bit closer."

Other problems that have emerged since the DMV's computer upgrade have included a backlog of paperwork that resulted in some drivers' registrations being suspended even after they had sent proof of insurance to the DMV. That meant drivers could be pulled over by police, ticketed and have their cars towed, despite carrying adequate insurance.

Ayala apologized for the errors Jan. 7, saying, "DMV has caused a major hardship and inconvenience for people whose registrations have been suspended when they actually had continuous vehicle insurance." He said drivers would be reimbursed for any erroneous fines or fees.

Other, unresolved issues for DMV include a backlog in processing vehicle titles that stood at more than 125,000 as of mid-October, and what the department describes as "computer matchup discrepancies" between towns' and cities' vehicle assessment files and the new DMV computer system.

Hiring In Spotlight

Word of Ayala's resignation emerged this past Wednesday, two days after The Courant submitted an FOI request and questions on a subject that might have become the latest political headache for him and the Malloy administration: DMV's hiring in November of an Ayala associate from Bridgeport — who pleaded guilty in 2006 of felony drug charges in Superior Court and served time in prison — as a \$36,000-a-year office assistant in the commissioner's office.

The aide, Carlos Cosme, 39, worked for two years as a \$40,000 staff member of the state Democratic Senate Caucus, starting in January 2013, then switched to DMV while Ayala was in charge.

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Cosme initially was sentenced to 11 years in prison in 2006 on charges of possession of drugs with intent to sell, but that term was reduced and he was released in 2009 to supervised parole that ended in 2011, records show. Cosme was not available for comment.

Personnel records obtained late in the week show that Cosme was hired at DMV on Nov. 13, although state comptroller's records initially said it was early in 2015, and that he was rated as one of two top applicants by a three-member department panel that included Mildred Torres-Ferguson, the former top aide to the state Democratic speaker of the House who is now executive assistant in the DMV commissioner's office.

The November hiring was Cosme's second try at employment in the DMV commissioner's office; it turns out that Ayala had attempted to hire him at DMV in January 2015 on his way in as commissioner, a top state official said.

Ayala's predecessor, Melody Currey, told Government Watch on Friday that in her last days as motor vehicles commissioner a year ago (she's now Malloy's Department of Administrative Services commissioner), the newly arriving Ayala "wanted to hire" Cosme for a politically appointed position — a clerical job.

Ayala was "comfortable" with Cosme through his work with him as a Senate aide, Currey said. But when the DMV performed its standard background check on Cosme, it turned up the criminal history, Currey said. She said she talked that over with Ayala, and "it was a mutual decision not to bring him in."

Asked about the November hiring of Cosme — which is for a state merit system position, not a politically appointed one — Currey said she hadn't known about it because, although DAS provides personnel authorizations for state agencies, it does not deal with candidate selection for clerk-typist positions such as the one Cosme was hired for at DMV.

A Malloy spokesman, Devon Puglia, said there are "no plans to rescind" Cosme's hiring, but Ayala's successor — whenever he or she is selected — "will make decisions about his or her appointed staff."

As to broader questions about DMV, such as whether an acting commissioner will be named above Bzdyra, and how long it will take to name a permanent replacement for Ayala, Puglia declined comment other than to say, "we'll have next steps soon."